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October 17, 2008

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Ex Parte Communication
Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92.

Dear Ms. Dortch:

On October 1, 2008, Sprint Nextel Corporation ("Sprint") filed a written *ex parte*¹ responding to a Verizon proposal to reform the intercarrier compensation regime and the rules governing interconnection.² This letter provides the Commission additional information regarding interconnection and Sprint's concerns regarding control over bottleneck facilities used to transmit traffic between networks.

If the Commission adopts an appropriately low, cost based, uniform termination rate cap for all types of traffic, the only remaining opportunity for uneconomic arbitrage will be the charges associated with the transport of traffic between networks. Given the structure of circuit switched networks, tandems are likely to remain the default point of interconnection for termination of circuit switched traffic. Under the Verizon plan as originally proposed, however, interstate and intrastate access charges would continue to apply to a large portion of the traffic exchanged through these facilities. In addition, all price controls could be removed after a period of years.³

On October 14, 2008, Verizon and AT&T jointly filed a new proposal for interconnection which incorporates many aspects of the original Verizon plan but makes

¹ Letter from Anna M. Gomez, Sprint, CC Docket Nos. 01-92 and 96-45, October 1, 2008 ("*Sprint Ex Parte*").

² Letter from Susanne Guyer, Verizon, to Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell ("*Verizon Letter*"), CC Docket Nos. 01-92 and 96-45.

³ *Sprint Ex Parte* at p. 6-7.

several important changes.⁴ The proposal simplifies the Verizon plan, including the elimination of a provision that would have required terminating carriers to assume the costs of traffic from an originating carrier under certain circumstances. Sprint generally supports these simplified rules as more likely to lead to rational interconnection arrangements.

Sprint notes, however, that the new Verizon and AT&T proposal is silent on the issue of cost standards to be applied to interconnection facilities used to exchange traffic. The absence of such language may suggest that AT&T and Verizon are moving away from the original Verizon proposal to apply access charges to these facilities, but it is unclear. Given that tandem facilities create a natural bottleneck in the circuit switched network, and given the fact that Verizon and AT&T are the primary suppliers of tandem facilities, Sprint is concerned about the lack of any clarification regarding the manner in which pricing discipline will be applied to this monopoly service.

Sprint urges the Commission to confirm that the termination of all telecommunications traffic will be governed under the terms of Section 251(b)(5) and the 252(d)(2) compensation standard. Moreover, the Commission should confirm that interconnection with and through incumbent local exchange carrier ("ILEC") networks, including tandem switching and transport to third parties, will continue to be subject to the pricing standards of 252(d)(1). The Commission should not make the mistake of addressing one bottleneck (the terminating monopoly) held by all carriers, while ignoring a bottleneck that is owned almost entirely by Verizon and AT&T.

Tandem and transit services have been consistently held to be governed by the provisions of sections 251 and 252 of the Act. At least seventeen states have concluded that ILECs must provide transiting services under these provisions⁵ and at least eight of these states have also concluded that transiting must be priced at TSLRIC or TELRIC.⁶

Sprint encourages the Commission to confirm that all transit and transport services are subject to the pricing discipline of sections 251 and 252 of the Act, including transit services currently being provided under interstate access tariffs.⁷ As has been consistently demonstrated throughout this proceeding, access rates are severely inflated over actual cost. This includes access rates for transit and transport services. Attached as Exhibit B to this filing is a comparison of current access charges for AT&T, Verizon and Qwest and the corresponding TELRIC rate established for the same service under the provisions of 252 of the Act. These access rates are 160% to 200% higher than those established under cost-

⁴ Letter from Hank Hultquist, AT&T Services, Inc. and Donna Epps, Verizon, CC Docket 01-92 (October 14, 2008).

⁵ See Exhibit A attached hereto.

⁶ Texas, California, Kentucky, Missouri, North Carolina, Ohio, Connecticut, and Nebraska, *id.*

⁷ See Exhibit C attached hereto, containing network diagrams and the corresponding applicable pricing standard.

based pricing. Given the potential time necessary to conduct 251/252 proceedings, Sprint encourages the Commission to adopt state TELRIC pricing as an interim rate for the provision of these services.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please let me know if you have any questions regarding this filing.

Respectfully submitted,

/s/ Charles W. McKee

Charles W. McKee
Director, Government Affairs
Sprint Nextel Corporation

Enclosures

cc: Amy Bender
Nicholas Alexander
Scott Bergmann
Scott Deutchman
Greg Orlando
Dana Shaffer
Don Stockdale
Marcus Maher
Julie Veach
Randy Clarke
Al Lewis
Victoria Goldberg
Tim Stelzig

Exhibit A

STATE DECISIONS REGARDING TRANSITING SERVICES

Alabama: *Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Intermedia Communications Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*; Docket No. 99-00948; Alabama Public Service Commission; 2000 Ala. PUC LEXIS 1924; Order dated July 11, 2000; page 122.

Arkansas: *In the matter of Telcove Investment, LLC's Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas*; Arkansas Public Service Commission Docket No. 04-167-U; Order No. 10; page 58; September 15, 2005.

California: *Application by Pacific Bell Telephone Company d/b/a SBC California (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services LLC (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*; California Public Utilities Commission Decision 06-08-029; Application 05-05-027; page 9; August 24, 2006, Dated.

Connecticut: *Petition of Cox Connecticut Telecom, L.L.C. for Investigation of the Southern New England Telephone Company's Transit Service Cost Study and Rates*; State of Connecticut, Department of Public Utility Control Docket No. 02-01-23; Decision; dated January 15, 2003.

Florida: *Joint petition by TDS Telecom d/b/a/ TDS Telecom/Quincy Telephone, et. al. objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.*, Order on BellSouth Telecommunications, Inc.'s Transit Traffic Service Tariff, Florida Public Service Commission, Order No. PSC-06-0776-FOF-TP, Docket Nos. 05-0119-TP and 05-0125-TP, issued September 18, 2006, p. 17.

Illinois: *Level 3 Communications, L.L.C Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Illinois Bell Telephone Company (SBC Illinois).*; Illinois Commerce Commission Docket No. 04-0428; Administrative Law Judge's Proposed Arbitration Decision; dated December 23, 2004. This docket was subsequently settled without a final commission order.

Indiana: *In the Matter of Level 3 Communications, LLC's Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Indiana Bell Telephone Company d/b/a SBC Indiana*;

Indiana Utility Regulatory Commission Cause No. 42663 INT-01; page 12; approved December 22, 2004. Vacated at request of parties who had negotiated 13-state ICA, March 16, 2005.

Kansas: *In the Matter of arbitration Between Level 3 Communications, LLC and SBC Communications, Inc., Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, for Rates, Terms, and Conditions of Interconnection*; Kansas Corporation Commission Docket No. 04-L3CT-1046-ARB; page 283; February 4, 2005, Dated.

Kentucky: *Joint Petition for Arbitration of NewSouth Communications Corp., NUVOX Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC on Behalf of its Operating Subsidiaries Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*; Kentucky Public Service Commission Case No. 2004-00044; page 27; March 14, 2006.

Massachusetts: *Petitions of MediaOne Telecommunications of Massachusetts, Inc. and New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for arbitration, pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement, et al.*; Massachusetts Department of Telecommunications and Energy Docket Nos. 99-42/43, 99-52; at page 122; August 25, 1999.

Michigan: *In the matter of the petition of Michigan Bell Telephone Company, d/b/a/ SBC Michigan, for arbitration of interconnection rates, terms, and conditions, and related arrangements with MCIMetro Access transmission Services, LLC, pursuant to Section 252b of the Telecommunications Act of 1996*; Michigan Public Service Commission Case No. U-13758; page 46; August 18, 2003.

Missouri: *Petition of Socket Telecom, LLC for Compulsory Arbitration of Interconnection Agreements with CenturyTel of Missouri, LLC and Spectra Communications, LLC, pursuant to Section 251(b)(1) of the Telecommunications Act of 1996*; Missouri Public Service Commission Case No. TO-2006-0299; page 47; June 27, 2006, Issued.

Nebraska: *In the Matter of the Application of Cox Nebraska Telcom, LLC, Omaha, seeking arbitration and approval of an interconnection agreement pursuant to Section 252 of the Telecommunications Act of 1996, with Qwest Corporation, Denver, Colorado*; Nebraska Public Service Commission Application No. C-3796; Order Approving Agreement; Entered January 29, 2008.

North Carolina: *In the Matter of Joint Petition of NewSouth Communications Corp. et al. for Arbitration with BellSouth Telecommunications, Inc.*; North Carolina Utilities

Commission Docket No. P-772, Sub 8; Docket No. P-913, Sub 5; Docket No. P-989, Sub 3; Docket No. P-824, Sub 6; Docket No. P-1202, Sub 4; page 130; July 26, 2005.

Ohio: *In the Matter of the Establishment of Carrier-to-Carrier Rules In the Matter of the Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines In the Matter of the Commission Review of the Regulatory Framework for Competitive Telecommunications Services Under Chapter 4927, Revised Code*; Public Utilities Commission of Ohio Case No. 06-1344-TP-ORD; Case No. 99-998-TP-COI; Case No. 99-563-TP-COI; page 52; November 21, 2006, Entered.

Oklahoma: *Petition of CLEC Coalition for Arbitration Against Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma Under Section 252(b)(1) of the Telecommunications Act of 1996*; Oklahoma Corporation Commission Cause Nos. PUD 200400497 and 200400496; Order No. 522119; Final Order; dated March 24, 2006.

Texas: *Arbitration of Non-Costing Issues for Successor Interconnection Agreements to the Texas 271 Agreement*; Public Utility Commission of Texas P.U.C. Docket No. 28821; Arbitration Award – Track 1 Issues; page 23; February 22, 2005.

Exhibit B

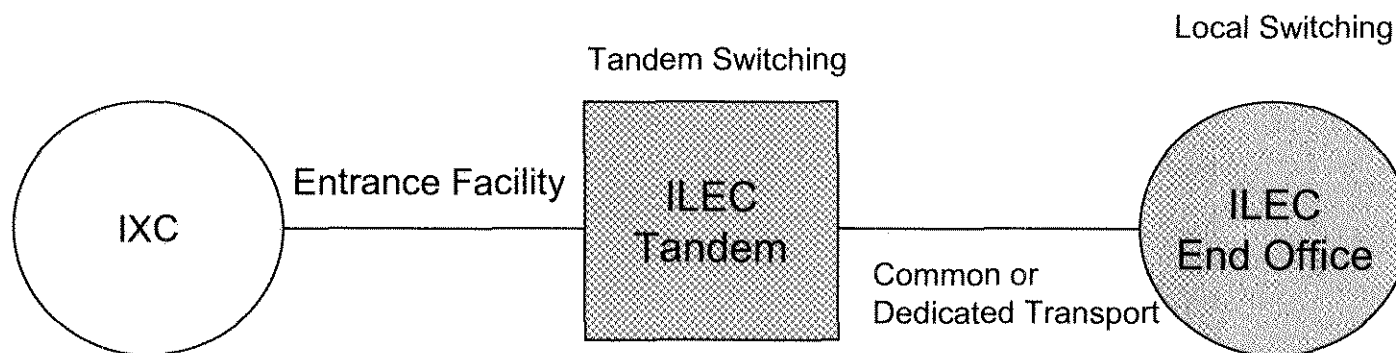
Comparison of Access and UNE Rates for Tandem Switching and Common Transport

	UNE Transport <u>TOTAL</u>	Interstate Access Transport <u>TOTAL</u>	Ratio of Ave. Access Rate vs. <u>UNE Rate</u>
<u>BY CARRIER</u>			
AT&T	\$0.001171	\$0.001881	161%
VZ	\$0.000823	\$0.001668	203%
QW	\$0.001681	\$0.003062	<u>182%</u>
	\$0.001131	\$0.001959	173%
Total Transport = Tandem Switching and Common Transport			

Exhibit C

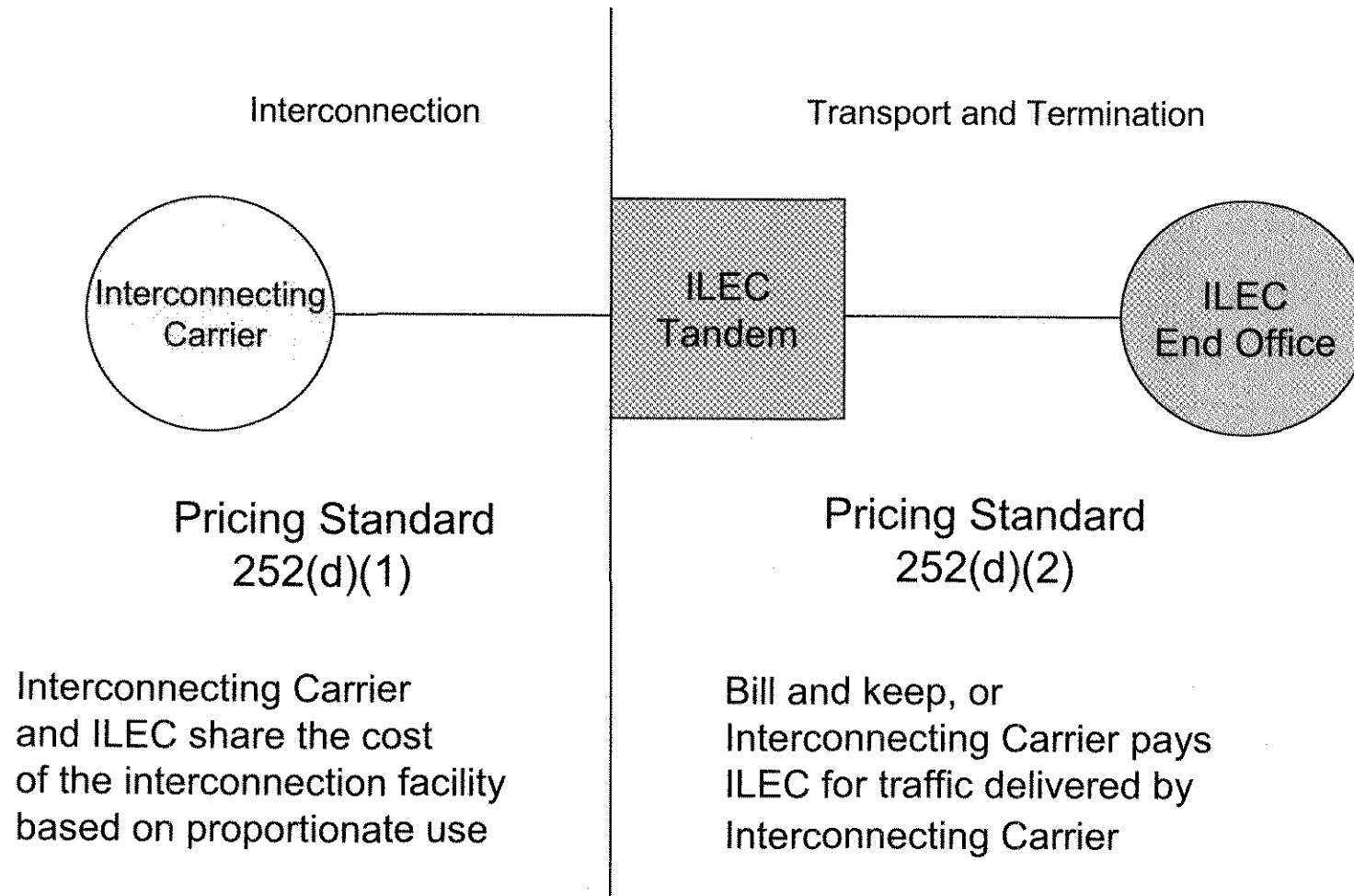
**Network Diagrams and the Corresponding
Applicable Pricing Standard**

Interconnection Under the Pre-1996, Supersede-able 251(g) Monopoly-Era Switched Access Regime



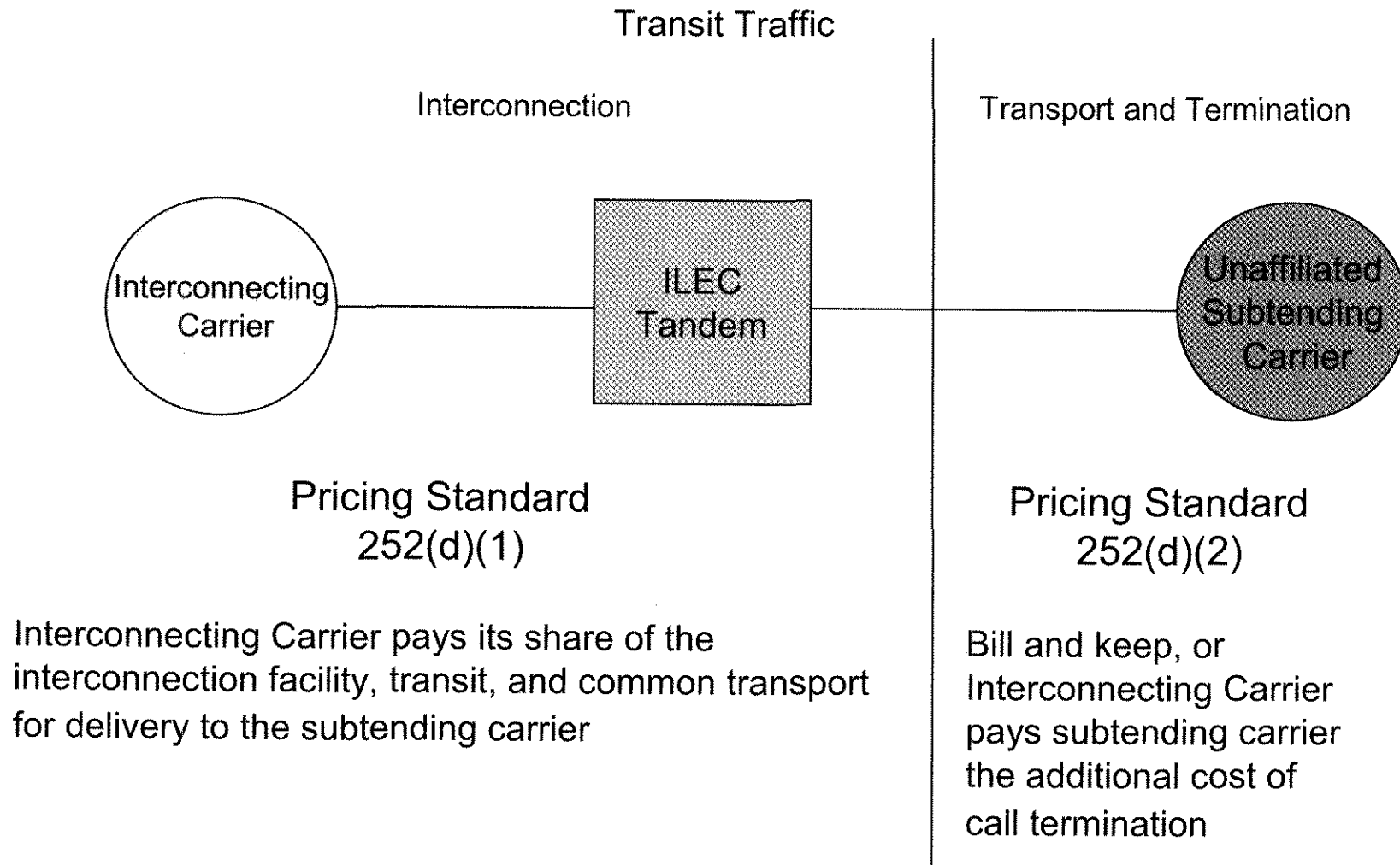
Pricing Standard: Tariffs - not based on cost, no opportunity to negotiate or arbitrate

Interconnection and Transport & Termination of Telecommunications Under the Telecom Act



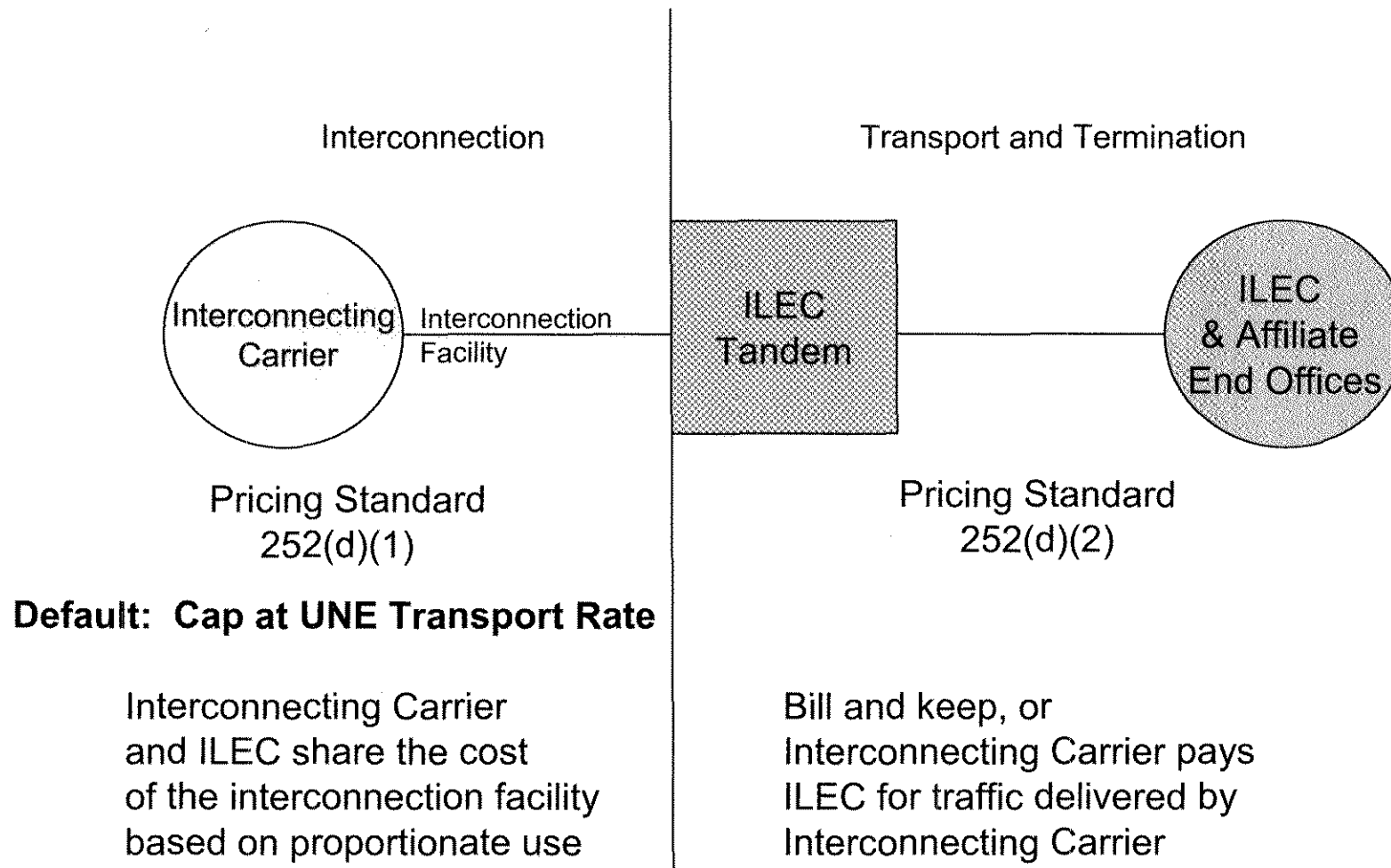
Governed by Interconnection Agreements – thru negotiation or arbitration

Interconnection and Transport & Termination of Telecommunications Under the Telecom Act



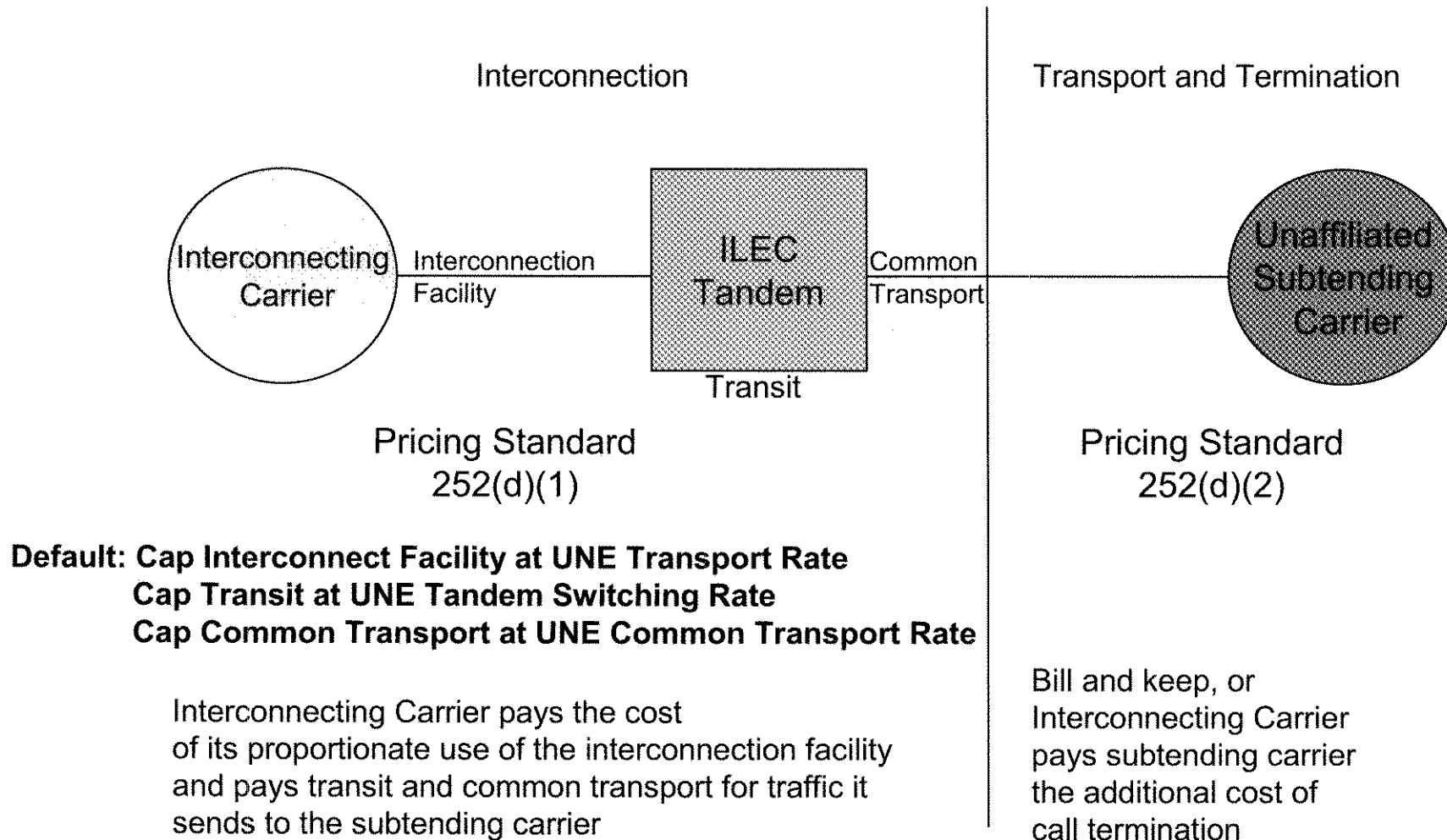
Governed by Interconnection Agreements – thru negotiation or arbitration

Reform – Apply the Interconnection and Transport & Termination Provisions of the Telecom Act to All Telecommunications



Governed by Interconnection Agreements – thru negotiation or arbitration

Reform – Apply the Interconnection and Transport & Termination Provisions of the Telecom Act to All Telecommunications



Governed by Interconnection Agreements – thru negotiation or arbitration